

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

JOHN DIFELICIANTONIO,)	
)	Civil Action
Plaintiff)	No. 2005-CV-05802
)	
vs.)	
)	
JOANNE B. BARNHART,)	
Commissioner of Social Security,)	
)	
Defendant ¹)	

O R D E R

NOW, this 3rd day of May, 2007, upon consideration of Plaintiff's Motion for Summary Judgment filed April 28, 2006; upon consideration of the Motion for Summary Judgment filed on behalf of defendant July 21, 2006; upon consideration of the Report and Recommendation of United States Magistrate Judge M. Faith Angell filed January 23, 2007; upon consideration of Plaintiff's Complaint, defendant's Answer and after a thorough review of the record in this matter; it appearing that neither party filed objections to Magistrate Judge Angell's Report and Recommendation; it further appearing that Magistrate Judge Angell's Report and Recommendation correctly determined the legal issues presented in this case,

IT IS ORDERED that Magistrate Judge Angell's Report and Recommendation is approved and adopted.

¹ I note that Michael J. Astrue has succeeded Jo Anne B. Barnhart as Commissioner of the Social Security Administration. Because this action was brought against defendant Barnhart solely in her representative capacity and the real party in interest is the Social Security Administration, the change in Commissioners will have no effect upon the merits of this action.

IT IS FURTHER ORDERED that Plaintiff's Motion for Summary Judgment is granted.

IT IS FURTHER ORDERED that defendant's Motion for Summary Judgment is denied.

IT IS FURTHER ORDERED that, consistent with the Report and Recommendation, this matter is remanded to the Commissioner of Social Security for the Administrative Law Judge to: (1) more thoroughly explain how she reached her conclusions of credibility determination and what caused her to accept portions of Mr. and Mrs. DiFelicianantonio's testimony as substantial evidence of no disability and to discount other portions of their testimony which supported a finding of disability; and (2) address Finding No. 9 that there are significant jobs in the national economy that plaintiff could perform, in light of the vocational expert's testimony that sufficient productivity is required by the employer and that the jobs require reliable attendance and cannot be performed if someone were so anxious that he had to terminate working.

IT IS FURTHER ORDERED that the Clerk of Court shall mark this case closed for statistical purposes.

BY THE COURT:

/s/ JAMES KNOLL GARDNER
James Knoll Gardner
United States District Judge